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EPA's Proposed Methane Rule to Increase Regulatory Burden on "Super Pollutant"

On November 2, 2021, the Environmental Protection Agency ("EPA") issued a Notice of Proposed Rulemaking ("NPRM") proposing sweeping regulations on emissions from methane, what the Biden administration considers a "super pollutant" due to its greenhouse characteristics and its indirect impacts on human health. The rule proposes enhanced monitoring requirements for new and existing sources; significant limitations on venting, and stringent standards for emissions from not just well sites (like the Trump administration rule), but also compressor sites, tanks, pneumatic controllers, and pneumatic pumps. If finalized in its current form, the rule will upend the current state of play for methane control and enforcement in the oil patch.

Industry members will have 60 days to review and submit comments on the NPRM. EPA will be holding a virtual public hearing fifteen days and sixteen days after publication in the Federal Register to review this proposal. EPA is required by law to review and address any significant comments raised by the public, including the regulated community as part of the rulemaking process. Affected industry stakeholders should take steps to include their perspectives in the administrative record before the final rule is issued. These comments can make a real impact: they must be read by the agency, may lead to changes in the final rule, and will form part of the administrative record, in the event the rule is challenged. Challengers may also be precluded from raising issues that were not, but could have been, raised during the comment period.

THE NOTICE OF PROPOSED RULEMAKING - WHAT TO EXPECT

The Biden EPA's November 2, 2021 NPRM covers new and existing sources of methane emissions, with the goal of reducing methane emissions by 41 million tons by 2035. See Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, Docket No. EPA-HQ-OAR-2021-0317, *available at* <https://www.epa.gov/system/files/documents/2021-11/san-8510-ong->



[climate-review-proposal-frn-2021-11_1.pdf](#); “EPA’s Proposal to Reduce Climate- and Health-Harming Pollution from the Oil and Natural Gas Industry: Overview,” *available at* <https://www.epa.gov/system/files/documents/2021-11/2021-oil-and-gas-proposal.-overview-fact-sheet.pdf>. If finalized, it will trigger a new era of monitoring, technological requirements, and standards for methane emissions in the following ways:

- Venting from oil wells will no longer be allowed, and owners and operators must either (1) route the gas to sales lines when possible; (2) use the gas on site; or (3) route the gas to a flare or control device that reduces methane by 95%.
- All new and existing pneumatic controllers must release zero methane emissions (with the exception of certain sites in Alaska), including intermittent vent pneumatic controllers.
- Industry members will be required to adopt new monitoring programs to find and fix leaks at new and existing well sites and compressor stations, including hatches on storage tanks and flares.
 - Well sites with estimated emissions of three tons per year or more will be required to perform quarterly monitoring.
 - Well sites that emit less than three tons per year must conduct a survey as part of their monitoring requirements.
 - Well sites emitting between three and eight tons per year may be required to monitor semi-annually.
 - All compressor stations must perform monitoring for leaks at least every three months.
- Industry members can take part in a compliance option to use advanced methane detection technology.
- Tank batteries (groups of tanks that are adjacent and receive fluids from the same source) will be included in the definition of facilities that must reduce methane emissions.
- Current requirements for pneumatic pumps will be extended to natural gas-driven diaphragm and piston pumps used in production, and diaphragm pumps used in transmission.
- Additionally:
 - Liquids unloading will have nationwide requirements for the first time.
 - New natural gas processing facilities will be subject to updated leak detection and repair requirements, which will be presumed to apply to existing natural gas processing facilities.
 - New reciprocating compressors will be subject to stronger standards, which will be presumed to apply to existing reciprocating compressors.
 - Existing centrifugal compressors will be subject to presumptive standards that require 95% emissions control from wet seal degassing.

The new monitoring programs, the requirement of zero-emissions pneumatic controllers, and the elimination of venting would significantly increase operational and compliance costs. At the same time, EPA policy priorities, including its focus on climate change and environmental justice, signal a likelihood of increased enforcement in the oil and gas sector.

King & Spalding’s Environmental, Health and Safety team has substantial experience representing clients in the oil and gas sector and with all facets of EPA’s rulemaking process, including representing clients in rulemaking challenges in federal court.



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